How Does MOSH Work

DLLR
Maryland Division of Labor and Industry
Occupational Safety and Health (MOSH)

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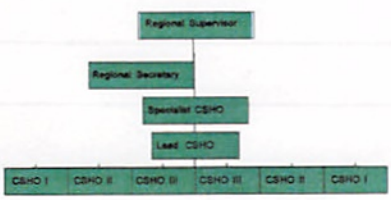
MOSH Regions
Region 1 - Easton (410) 819-5890
Region 3 - Hunt Valley (410) 527-4420
Region 4 - Hagerstown (301) 791-4099
Region 5 - Hunt Valley (410) 527-2091

Typical Regional Office Structure



Assistant Commissioner

William Dallas

Chief

Michael Penn

Assistant Chief

Keith Owens

Consultation Program Manager

Steve Miller

VPP

Allen Stump

Region I

Steve Serio

Industrial Hygiene Region II

Dawn Windham

Region III Supervisor

Bill Johnson

Region IV Supervisor

Brian Timberlake

Region V Supervisor

Robert Fadrowski

RESEARCH & STATISTICS

Steve Bisson

How Does MOSH Work

- We use "standards," legally enforceable regulations that govern employment conditions, practices, and operations.
- MOSH has adopted the Federal Occupational Safety and Health Standards contained in Title 29 Code of Federal Regulations Part 1910 (General Industry),

CONSTRUCTION
1910 GENERAL INDUSTRY

How Does MOSH Work cont'

- Title 29 Code of Federal Regulations Part 1926 (Construction), and Title 29 Code of Federal Regulations Part 1928 (Agriculture).
- In addition to these federal standards, MOSH has adopted several regulations that are unique to Maryland.

MOSH Regulations

- We uses two methods to ensure that employers and employees comply with applicable occupational safety and health requirements.
  - Voluntary compliance is promoted through MOSH Consultation Services and the MOSH Office of Training and Education, which provide free of charge assistance to employers upon request.

UNPROGRAMED INSPECTION - ACCIDENTS COMPLAINTS

PROGRAMED - JUST SHOW UP YOU ARE SENT

MOSH REGULATIONS

- The second method involves compulsory compliance, or enforcement of the law. The enforcement process includes investigation of complaints, accidents and fatalities and unannounced inspections by trained MOSH safety and industrial hygiene inspectors, who by law may enter any establishment without delay at any reasonable time to inspect the premises and all pertinent conditions and equipment.

Enforcement Activity

- Compliance inspections are conducted by MOSH Compliance Safety and Health Officers and Industrial Hygienists.
- We are authorized representatives of the Commissioner of Labor and Industry.
- Our inspections are conducted without advanced notice & are conducted during regular business hours.

Enforcement Activity Priority

Priority	Category
First	Imminent danger
Second	Fatality / catastrophe
Third	Serious complaints & referrals
Fourth	Accidents
Fifth	Other-than-serious complaints & referrals
Sixth	Follow-ups
Seventh	Programmed inspections

Inspections

Before making an inspection, an inspector reviews relevant facts about the workplace to ensure an effective inspection. The inspector brings to the inspection any special equipment that may be needed, such as instruments to test for noise, toxic substances in the air, or other conditions likely to be found in the workplace.

(1) PAST INSPECTIONS
(2) PAST COMPLAINTS

Inspections

At the beginning of an inspection, the inspector presents his or her credentials to the owner, operator, or agent in charge of the establishment. The inspector explains the reason for the visit and outlines in general terms the scope of the inspection, including safety and health records to be reviewed, employee interviews, the walkaround, and the closing conference.

CONFIDENTIAL

Complaint Related

The inspector provides the employer with a copy of any complaint received from an employee, if one has been filed. However, a complainant who is a current employee of that employer may request confidentiality, and his or her name will be withheld.

COMPLAINT HAVE TO BE SIGNED BUT CAN BE KEPT CONFIDENTIAL

COMPLAINT YOU ONLY INSPECT THAT AREA BUT CAN ADDRESS PROBLEMS OBSERVED IN PLAIN VIEW

The inspector, accompanied by the employer representative and any employee representatives, proceeds through the workplace and identifies possible occupational hazards or other apparent non-compliance with the MOSH Act, regulations and standards.

Inspections

- The inspector interviews a reasonable number of employees concerning safety and health in the workplace.

FOM STATES AT LEAST 1 EMPLOYEE
BUT NO LOSS THAN 5%
5% - 10%

Inspections

During the walkaround, the inspector takes notes and discusses his or her observations with the representatives. The inspector also may take photographs to record possible violations or hazardous conditions, and uses other investigative techniques as appropriate.

Inspections

- Throughout the inspection, the inspector takes special care to maintain the confidentiality of trade secrets and security matters.

Inspections

- The inspector also examines required records of deaths, injuries and illnesses, and verifies that an annual summary has been posted. Records of employee exposure to toxic substances and harmful physical agents also are reviewed.

Closing Conference

- After the walkaround, the inspector conducts a closing conference with the employer to discuss any conditions or practices that may constitute violations of the law, regulations, or standards. During the closing conference, the employer is requested to estimate the time and the cost of abating any hazards that may be the subject of a citation.

NEVER CLOSE ON AN ACCIDENT USE PRE CLOSING

NEVER SAY I'M ISSUING CITATIONS ONLY SAY I'M RECOMANDING CITATIONS

Case Write Up

- The inspector reports the inspection findings to the Commissioner of Labor and Industry, who determines whether to issue citations for apparent violations, establishes time limits for the abatement of alleged hazards, and determines whether civil money penalties will be proposed.

MOSH REGULATIONS

- Where an inspection reveals an alleged violation, the Commissioner is authorized to issue a written citation describing the specific nature of the violation.
- This may result in the employer being assessed a monetary penalty.
- In addition, all violations must be corrected within a prescribed period of time.

Public Sector Enforcement

- Although citations are issued for alleged violations of MOSH standards, public sector employers are not subject to civil or criminal penalties for violation of the law's provisions.

ONLY DIFFERENCE IN PUBLIC SECTOR TO PRIVATE SECTOR NO FINES FOR PUBLIC

Violations and Penalties

Violations of MOSH standards are classified in the following ways:

Willful or Repeated Violation

An employer who willfully or repeatedly violates a provision of the MOSH Act, regulations, or standards, may be assessed a civil penalty not to exceed $70,000 for each violation.

Willful or Repeated Violation

- By law, the penalty for a willful violation may not be less than $5,000. Additionally, an employer may be prosecuted criminally if a willful violation causes the death of an employee.

Serious Violation

A serious violation exists where there is a substantial probability that death or serious physical harm could result, unless the employer did not and could not with the exercise of reasonable diligence know of the violation. A civil penalty not to exceed $7,000 is assessed for each serious violation.

Other-than-Serious Violation

- An other-than-serious violation has a direct or immediate relationship to safety or health without substantial probability that death or serious physical harm could result.
- Usually no penalty or
- A civil penalty not to exceed $7,000 may be assessed for each other-than-serious violation.

Failure To Correct

- An employer who fails to correct a violation for which a citation has been issued, within the period permitted for its correction, may be assessed additional civil penalties not to exceed $7,000 for each day during which the violation continues.

Violation of Posting Requirements

- An employer who violates MOSH posting requirements is assessed a civil penalty not to exceed $7,000 for each violation.

POSTING ARE ADMINISTRATIVE VIOLATIONS POST SHOULD BE FOR 3 DAYS

Employer & Employee Rights

- A **notice of violation**, including a civil penalty, is a final order unless the employer files with the Commissioner a timely written notice of intent to contest. An employer who wishes to contest a citation or a proposed penalty may take the following actions:

Notice of Contest

- An affected employer has 15 work days from receipt of a citation, excluding weekends and State holidays, in which to notify the Commissioner in writing that the employer contests the citation, proposed penalty, or both.

Notice of Contest

- The employer may indicate in the notice of contest whether the hearing is to be held in Baltimore City, the county where the violation allegedly occurred, or an office that the Commissioner designates as a regional office.
- Hearings are conducted at the Office of Administrative hearings in Hunt Valley MD.

Notice of Contest

- An affected employee or representative may participate as a party in a hearing.
- Has 15 work days after issuance of a citation, excluding weekends and State holidays, in which to notify the Commissioner, in writing, that he or she believes the period of time set in the citation for abatement of the violation is unreasonable.

Notice of Contest

- An employer may not contest a proposed abatement date, but under certain circumstances may file a written Petition for Modification of Abatement Date.

Informal Conference

- An affected employer, or an affected employee or representative, may request an informal conference to discuss issues raised by the inspection, citation, proposed penalty, or notice of contest. A request for an informal conference does not delay the 15 workday period for filing a notice of contest.

Informal Conference

- The Commissioner may permit an affected employer to participate in an informal conference requested by an employee or representative, and may permit an affected employee or representative to participate in an informal conference requested by the employer.

Prehearing Conference

- After a notice of contest has been filed and a hearing date set, a party to the contest may request a prehearing conference with the Assistant Attorney General assigned to the case to exchange information, attempt to resolve or narrow the issues, or discuss settlement of the case.

Prehearing Conference

- A request for a prehearing conference must be made well in advance of the scheduled hearing. A scheduled hearing ordinarily will not be postponed to allow the parties to have a prehearing conference.
- All parties may participate in a prehearing conference.

Administrative Hearing

- When a citation is contested, the Commissioner of Labor and Industry may appoint a Hearing Examiner to hold a hearing and prepare a record and report. Specific procedures govern the conduct of a MOSH administrative hearing. These procedures are set out in the MOSH Act and regulations.

Administrative Hearing

- A Hearing Examiner's written report becomes a final order of the Commissioner unless within 15 work days after the report is submitted, the Commissioner orders a review of the proceedings, or the employer or employee or representative files a request for the Commissioner to review the report.

Appeal Commissioner's Order

- A final order of the Commissioner may be appealed to the appropriate Circuit Court.

Thank You